

**MISSOURI TAX REVIEW COMMISSION SUBCOMMITTEE
REPORT AND RECOMMENDATION
COVER SHEET**

Prepared and Approved by: Banking and Insurance Tax Credit Committee
Submitted to The Missouri Tax Credit Review Commission on: 10/29/10

Name and Statutory Citation of Credit:

Bank Franchise Tax Credit, Section 148.064 RSMo.

1 Objective, Purpose, and Perceived Beneficial Effects of Credit (e.g., Economic Development/Societal Need Met)

A Bank Franchise Tax Credit can be claimed by a bank in an amount equal to 1/60th of 1 percent of its outstanding shares and surplus employed in this state if the outstanding shares and surplus exceed \$1 million. The tax credit has the effect of equalizing the tax treatment of financial institutions and other corporations.

2 Cost - Benefit Analysis

FY 2009 0.06

FY 2010 0.06

3 Number of Persons: (a) Applying for; and (b) Utilizing Credit in:

(a) 2009: 256 2010: 190

(b) 2009: 256 2010: 190

4 Fiscal Impact on State in 2009, 2010, 2011, and Estimated Impact in 2012 (Amount in \$\$ of Redemptions), and Total Remaining Unredeemed Credits:

2009: \$2,710,300 2010: \$2,013,584 2011: \$2,100,000 (estimated)

2012: \$2,100,000 (estimated) Est Amt. Outstanding: \$0

5 Recommended Priority Category of Credit (A, B, C, or D): N/A

6 Recommended Date of Termination if Category D:

7 Attachments Explaining Reasons to Retain Credit:

8 Attachments Explaining Reasons to Terminate Credit:

9 Attachments Explaining Alternatives for Modification of Credit:

10 Minority Report(s) Attached:

Attachment - **Bank Franchise Tax Credit**

The committee believes that the Bank Franchise Tax Credit is a feature of Missouri's overall tax structure, rather than a true "tax credit," as that term is used to describe the state's various programs designed to provide an economic incentive or achieve a social outcome. The Bank Franchise Tax Credit was created to equalize the tax burden between financial institutions and other corporations after the General Assembly altered the corporate franchise tax. Elimination or reduction of the credit would increase taxes on financial institutions above the taxes imposed on otherwise similarly situated industries. Accordingly, the committee believes that any recommendation regarding the Bank Franchise Tax Credit would be tantamount to a recommendation to alter the overall Missouri tax structure, which is outside the purview of this Commission. Nevertheless, the committee recommends that the General Assembly should consider evaluating the Bank Franchise Tax Credit in the context of Missouri's overall tax structure to determine whether it is the most effective mechanism to equalize the tax burden between financial institutions and other corporations.

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Prepared and Approved by: Banking and Insurance Tax Credit Committee
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Name and Statutory Citation of Credit:

Bank Tax Credit for S Corporation Shareholders, Section 143.471 RSMo.

1 Objective, Purpose, and Perceived Beneficial Effects of Credit (e.g., Economic Development/Societal Need Met)

Provides a tax credit for shareholders of subchapter S corporations that are banks, bank holding companies, savings and loan associations, and/or credit institutions. The purpose of the credit was to ensure that shareholders in financial institutions that are S corporations are treated similarly to shareholders of any other S-corporations under Missouri tax law.

2 Cost - Benefit Analysis

FY 2009 0.01
FY 2010 0.02

3 Number of Persons: (a) Applying for; and (b) Utilizing Credit in:

(a) 2009: 1,044 2010: 910
(b) 2009: 1,044 2010: 910

4 Fiscal Impact on State in 2009, 2010, 2011, and Estimated Impact in 2012 (Amount in \$\$ of Redemptions), and Total Remaining Unredeemed Credits:

2009: \$1,862,266 2010: \$1,823,612 2011: \$1,850,000 (estimated)
2012: \$1,850,000 (estimated) Est Amt. Outstanding: \$0

5 Recommended Priority Category of Credit (A, B, C, or D): N/A

6 Recommended Date of Termination if Category D:

7 Attachments Explaining Reasons to Retain Credit:

8 Attachments Explaining Reasons to Terminate Credit:

9 Attachments Explaining Alternatives for Modification of Credit:

10 Minority Report(s) Attached:

Attachment - **Bank Tax Credit for S Corporation Shareholders**

The committee believes that the Bank Tax Credit for S Corporation Shareholders is a feature of Missouri's overall tax structure, rather than a true "tax credit," as that term is used to describe the State's various programs designed to provide an economic incentive or achieve a particular social outcome. The Bank Tax Credit was created to equalize a disparity in tax burden imposed on shareholders in financial institutions organized as S-corporations and shareholders in other S-corporations. Elimination or reduction of the credit would increase taxes on shareholders in financial institutions organized as S-corporations above the tax burden imposed for shareholders in S-corporations in any other industry. Accordingly, the committee believes that any recommendation regarding the Bank Tax Credit would fundamentally alter the overall Missouri tax structure and, as a result, is outside of the purview of this Commission. Nevertheless, the committee recommends that the General Assembly consider evaluating the Bank Tax Credit in the context of Missouri's overall tax structure to determine whether it is the most effective mechanism to equalize the tax burden between shareholders in financial institutions organized as S-corporations and shareholders in non-financial institutions organized as S-corporations.

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Prepared and Approved by: Banking and Insurance Tax Credit Committee
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Name and Statutory Citation of Credit:

Missouri Examination Fee and Other Fee Credit, Section 148.400 RSMo.

1 Objective, Purpose, and Perceived Beneficial Effects of Credit (e.g., Economic Development/Societal Need Met)

The credit allows the total cost of an examination paid by an insurance company, any income taxes, franchise taxes, personal property taxes, valuation fees and/or registration fees paid to be taken as a tax credit against premium tax due. The credit attempts to equalize the treatment of insurance companies and other businesses entities, which can deduct the above-referenced taxes and fees as operating expenses.

2 Cost - Benefit Analysis

FY 2009: n/a

FY 2010: n/a

3 Number of Persons: (a) Applying for; and (b) Utilizing Credit in:

(a) 2009: 106 2010: 115

(b) 2009: 106 2010: 115

4 Fiscal Impact on State in 2009, 2010, 2011, and Estimated Impact in 2012 (Amount in \$\$ of Redemptions), and Total Remaining Unredeemed Credits:

2009: \$4,569,160 2010: \$4,500,000 (estimated) 2011: \$4,500,000 (estimated)
Est Amt. Outstanding: \$10,833,574

5 Recommended Priority Category of Credit (A, B, C, or D): N/A

6 Recommended Date of Termination if Category D:

7 Attachments Explaining Reasons to Retain Credit:

8 Attachments Explaining Reasons to Terminate Credit:

9 Attachments Explaining Alternatives for Modification of Credit:

10 Minority Report(s) Attached:

Attachments - Missouri Examination Fee and Other Fee Tax Credit

The committee believes that the Examination Fee and Other Fee Tax Credit is a feature of Missouri's overall tax structure, rather than a true "tax credit," as that term is used to describe the state's various programs designed to provide an economic incentive or achieve a social outcome. The Exam Fee credit was created in an attempt to equalize the tax burden on insurance companies, which, unlike other businesses when calculating income tax liability, cannot deduct certain fees and taxes as operating expenses when calculating their premium tax liability. Elimination or reduction of the credit would increase taxes on insurance companies above the taxes imposed on otherwise similarly situated industries. Accordingly, the committee believes that any recommendation regarding the Exam Fee Credit would be tantamount to a recommendation to alter the overall Missouri tax structure, which is outside the purview of this Commission. Nevertheless, the committee recommends that the General Assembly consider evaluating the Exam Fee Credit in the context of Missouri's overall tax structure to determine whether it is the most effective mechanism to equalize the tax burden between insurance companies and other corporations.

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Prepared and Approved by: Banking and Insurance Tax Credit Committee
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Name and Statutory Citation of Credit:

Missouri Health Insurance Pool Assessment Credit, Section 376.975 RSMo.

1 Objective, Purpose, and Perceived Beneficial Effects of Credit (e.g., Economic Development/Societal Need Met)

The Missouri Health Insurance Pool serves Missouri residents who cannot purchase insurance in the regular market. All insurers issuing health insurance in the state are members of the pool. Individuals in the pool pay a premium and the difference between premiums paid and actual costs are assessed to members of the pool. The insurers are then allowed a tax credit against their tax liability.

2 Cost - Benefit Analysis

FY 2009 n/a
FY 2010 n/a

3 Number of Persons: (a) Applying for; and (b) Utilizing Credit in:

(a) 2009: 112 2010: 127
(b) 2009: 112 2010: 127

4 Fiscal Impact on State in 2009, 2010, 2011, and Estimated Impact in 2012 (Amount in \$\$ of Redemptions), and Total Remaining Unredeemed Credits:

2009: \$3,182,125 2010: \$5,231,399 (estimated) 2011: \$5,000,000 (estimated)
2012: n/a Est Amt. Outstanding: \$8,996,085

5 Recommended Priority Category of Credit (A, B, C, or D): N/A

6 Recommended Date of Termination if Category D:

7 Attachments Explaining Reasons to Retain Credit:

8 Attachments Explaining Reasons to Terminate Credit:

9 Attachments Explaining Alternatives for Modification of Credit:

10 Minority Report(s) Attached:

Attachment - Missouri Health Insurance Pool Assessment Credit

The committee believes that the Missouri Health Insurance Pool Assessment Credit is a mechanism to provide health insurance to individuals who would be otherwise uninsurable, rather than a true “tax credit,” as that term is used to describe the state’s various programs designed to provide an economic incentive or achieve a social outcome. In addition, the Missouri Health Insurance Pool Assessment Credit implicates national policy issues regarding the regulation and provision of health insurance that are outside the purview of this Commission. Nevertheless, the committee recommends that the General Assembly consider evaluating the Health Insurance Pool Assessment Credit to determine whether it is the most effective mechanism to enable otherwise uninsurable individuals to obtain health insurance.

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Prepared and Approved by: Banking and Insurance Tax Credit Committee
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Name and Statutory Citation of Credit:

Missouri Life and Health Insurance Guaranty Association Credit, Section 376.745 RSMo.

1 Objective, Purpose, and Perceived Beneficial Effects of Credit (e.g., Economic Development/Societal Need Met)

All insurers issuing life and health insurance in the state are members of the Missouri Life and Health Insurance Guaranty Association. The association pays Missouri policyholders for claims against insolvent L&H companies, and then assesses all members in the state to pay claims of the insolvent insurer. Association members are allowed to take these assessments as an offset against premium tax collected by the state.

2 Cost - Benefit Analysis

FY 2009 n/a
FY 2010 n/a

3 Number of Persons: (a) Applying for; and (b) Utilizing Credit in:

(a) 2009: 0 2010: 0
(b) 2009: 0 2010: 0

4 Fiscal Impact on State in 2009, 2010, 2011, and Estimated Impact in 2012 (Amount in \$\$ of Redemptions), and Total Remaining Unredeemed Credits:

2009: \$0 2010: \$0 (estimated) 2011: \$3,600,000 (estimated)
Est Amt. Outstanding: \$0

5 Recommended Priority Category of Credit (A, B, C, or D): N/A

6 Recommended Date of Termination if Category D:

7 Attachments Explaining Reasons to Retain Credit:

8 Attachments Explaining Reasons to Terminate Credit:

9 Attachments Explaining Alternatives for Modification of Credit:

10 Minority Report(s) Attached:

Attachment - Missouri Life and Health Insurance Guaranty Association Credit

The committee believes that the Missouri Life and Health Insurance Guaranty Association Credit is a feature of a national framework for the protection of policyholders against insurer insolvency, rather than a true “tax credit,” as that term is used to describe the state’s various programs designed to provide an economic incentive or achieve a social outcome. Due to the interdependency among state guarantee associations, the committee believes that any recommendation regarding the Missouri Life and Health Insurance Guaranty credit would implicate national policy issues regarding the protection of policyholders against insurer insolvency, which is outside the purview of this Commission. Nevertheless, the committee recommends that the General Assembly consider evaluating the Missouri Life and Health Insurance Guaranty Association Credit to determine whether it is the most effective mechanism to protect Missouri policyholders against insurer insolvency.

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Prepared and Approved by: Banking and Insurance Tax Credit Committee
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Name and Statutory Citation of Credit:

Missouri Property and Casualty Insurance Guaranty Association Credit, Section 375.774 RSMo.

1 Objective, Purpose, and Perceived Beneficial Effects of Credit (e.g., Economic Development/Societal Need Met)

All insurers issuing property and casualty insurance in the state are members of the Missouri Property and Casualty Insurance Guaranty Association. The association pays Missouri policyholders for claims against insolvent P&C companies, and then assesses all members in the state to pay claims of the insolvent insurer. Members are allowed to take these assessments as an offset against premium tax collected by the state.

2 Cost - Benefit Analysis

FY 2009 n/a
FY 2010 n/a

3 Number of Persons: (a) Applying for; and (b) Utilizing Credit in:

(a) 2009: 200 2010: 177
(b) 2009: 200 2010: 177

4 Fiscal Impact on State in 2009, 2010, 2011, and Estimated Impact in 2012 (Amount in \$\$ of Redemptions), and Total Remaining Unredeemed Credits:

2009: \$2,212,598 2010: \$827,237 (estimated) 2011: \$0 (estimated)
Est Amt. Outstanding: \$827,237

5 Recommended Priority Category of Credit (A, B, C, or D): N/A

6 Recommended Date of Termination if Category D:

7 Attachments Explaining Reasons to Retain Credit:

8 Attachments Explaining Reasons to Terminate Credit:

9 Attachments Explaining Alternatives for Modification of Credit:

10 Minority Report(s) Attached:

Attachment - **Missouri Property and Casualty Insurance Guaranty Association Credit**

The committee believes that the Missouri Property and Casualty Insurance Guaranty Association Credit is a feature of a national framework for the protection of policyholders against insurer insolvency, rather than a true “tax credit,” as that term is used to describe the state’s various programs designed to provide an economic incentive or achieve a social outcome. Due to the interdependency among state guarantee associations, the committee believes that any recommendation regarding the Missouri Property and Casualty Insurance Guaranty Association Credit would implicate national policy issues regarding the protection of policyholders against insurer insolvency, which is outside the purview of this Commission. Nevertheless, the committee recommends that the General Assembly consider evaluating the Missouri Property and Casualty Insurance Guaranty Association Credit to determine whether it is the most effective mechanism to protect Missouri policyholders against insurer insolvency.

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Prepared and Approved by: Banking and Insurance Tax Credit Committee
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Name and Statutory Citation of Credit:

Self-Employed Health Insurance Tax Credit, Section 143.119 RSMo.

1 Objective, Purpose, and Perceived Beneficial Effects of Credit (e.g., Economic Development/Societal Need Met)

A self-employed taxpayer who is ineligible for the federal income tax health insurance deduction may take credit against certain state taxes due. The purpose of the credit is to assist self-employed individuals in obtaining health insurance.

2 Cost - Benefit Analysis

FY 2009 0.02

FY 2010 0.02

3 Number of Persons: (a) Applying for; and (b) Utilizing Credit in:

(a) 2009: 1800 2010: N/A

(b) 2009: 1800 2010: N/A

4 Fiscal Impact on State in 2009, 2010, 2011, and Estimated Impact in 2012 (Amount in \$\$ of Redemptions), and Total Remaining Unredeemed Credits:

2009: \$1,729,167 2010: \$652,850 2011: \$1,000,000 (estimated)

2012: \$1,000,000 (estimated) Est. Amt. Outstanding: \$0

5 Recommended Priority Category of Credit (A, B, C, or D): D

6 Recommended Date of Termination if Category D: 2011 Legislative Session

7 Attachments Explaining Reasons to Retain Credit:

8 Attachments Explaining Reasons to Terminate Credit:

9 Attachments Explaining Alternatives for Modification of Credit:

10 Minority Report(s) Attached:

Attachment - **Self-Employed Health Insurance Tax Credit**

The committee recommends that the Self-Employed Health Insurance Tax Credit be terminated during the 2011 legislative session and replaced with a tax credit that better effectuates the purpose of assisting self-employed individuals in obtaining health insurance. As currently constructed, the credit is skewed to provide individuals who can most afford health insurance with a larger subsidy to obtain it than what would be available to those who can least afford health insurance. If the General Assembly were to create a new tax credit to assist low-income individuals to obtain health insurance, it should be structured similarly to the Senior Citizen's Property Tax Credit in providing a maximum income limitation and a sliding scale for the size of the benefit by which the size of the credit would decrease as adjusted gross income increases.

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Name and Statutory Citation of Credit:

Self-Employed Health Insurance Tax Credit, Section 143.119 RSMo.

1 Objective, Purpose, and Perceived Beneficial Effects of Credit (e.g., Economic Development/Societal Need Met)

A self-employed taxpayer who is ineligible for the federal income tax health insurance deduction may take credit against certain state taxes due. The purpose of the credit is to assist self-employed individuals in obtaining health insurance.

2 Cost - Benefit Analysis

FY 2009 0.02

FY 2010 0.02

3 Number of Persons: (a) Applying for; and
(b) Utilizing Credit in:

(a) 2009: 1800 2010: N/A

(b) 2009: 1800 2010: N/A

4 Fiscal Impact on State in 2009, 2010, 2011, and Estimated Impact in 2012 (Amount in \$\$ of Redemptions), and Total Remaining Unredeemed Credits:

2009: \$1,729,167 2010: \$652,850 2011: \$1,000,000 (estimated)

2012: \$1,000,000 (estimated) Est. Amt. Outstanding: \$0

5 Recommended Priority Category of Credit (A, B, C, or D): D

6 Recommended Date of Termination if Category D: 2011 Legislative Session

7 Attachments Explaining Reasons to Retain Credit:

8 Attachments Explaining Reasons to Terminate Credit:

9 Attachments Explaining Alternatives for Modification of Credit:

10 Minority Report(s) Attached:

Attachment - Self-Employed Health Insurance Tax Credit

The Banking and Insurance Tax Credit Committee recommends that the Self-Employed Health Insurance Tax Credit authorized by Section 143.119 RSMo. be terminated because it provides its greatest incentive and benefit to those individuals who can most afford health insurance while providing the least benefit to those who cannot.

Section 143.119.1 specifies that the credit is equal to ". . . the portion of such taxpayer's federal tax liability incurred due to such taxpayer's inclusion . . . [of health insurance premiums which are non-deductible under Section 162 of the Federal Internal Revenue Code] in federal adjusted gross income."

These tax credits are refundable but are not transferrable.

In 2009, this Credit resulted in redemptions of slightly less than \$1,800,000 and the projected redemption amount each year is about \$1,800,000 for the next several years. The Tax Credit has no discernable purpose other than allowing persons who are self-employed to reduce the amount of their state income tax (or even receive a refund) based on the amount they paid for health insurance. The Credit is claimed on a form "MO-SHC." The Credit grows as a taxpayer's income increases until the Credit is equal to the highest marginal federal tax rate multiplied times the amount of the health insurance dollars paid by the taxpayer. Beginning in 2011 and absent modifications to the federal tax rates by Congress, the highest marginal rate is 39.6% of federal taxable income earned in excess of \$250,000. The mechanism the Credit allows is to permit the highest marginal tax rate to be multiplied times the amount paid for health insurance to produce the Credit. Thus, instead of the first dollars earned at the lowest rate being utilized for the Credit (15% on taxable income below \$36,900 for married taxpayers filing joint returns), the highest marginal rate is permitted to be multiplied times the health insurance premiums paid.

The effect of the Credit is to give the greatest amount of dollars to those taxpayers earning the highest incomes.

If the purpose of the Credit is to allow persons who otherwise would not be able to purchase health insurance a credit so as to induce them to purchase health insurance, then the Credit as presently designed accomplishes exactly the opposite result, i.e., those persons with the lowest incomes receive the least benefit and the persons with the highest income receive the most benefits. Presumably the persons with the highest incomes would have health insurance regardless of the Credit, and the small amount of the Credit which is granted in favor of the lower earning taxpayers may not make any difference in those taxpayers deciding whether to purchase health insurance.

Accordingly, the Subcommittee has recommended that this Credit be abolished. To the extent it is replaced, it should be in the form of some type of subsidy for low-income bracket taxpayers which may be applied (or refunded) if they purchase health insurance. For example, if this tax credit were modeled on the same system utilized by the property tax "Circuit Breaker" Tax Credit authorized by Section 135.010 RSMo., a full credit amount would be awarded for persons making less than (for example) \$14,000 per year and that Credit would phase out as income rose

above that amount to a certain predetermined maximum income amount (e.g., \$30,000 in the case of the Circuit Breaker Tax Credit). Perhaps larger amounts of income would be appropriate under these circumstances because of the relative expense of health insurance (usually a substantially greater amount than real estate taxes) and the desirability of inducing persons in lower income brackets to acquire health insurance so as to avoid for Missouri the need to pay increased Medicaid costs.

For example, if the credit were applicable to all taxpayers earning less than \$50,000 of adjusted gross income in a calendar year, and the credit were 20% of the cost of health insurance premiums paid, but said credit phased out as income rose above \$30,000 (such that for each \$1,000 above \$30,000, the credit reduced 1%), a meaningful credit and inducement to lower income taxpayers to purchase health insurance would exist and a unnecessary benefit to higher income earners would thereby be eliminated.